

Remarks

The Examiner rejected claims 1-4, 7, 18-20, 17-28, and 30-31 as being anticipated under 35 USC § 102 by U. S Patent No. 5,775,005 to McClelland ("McClelland") and claims 5,6,21 and 22 under 35 USC § 103 as being obvious in view of McClelland over Design Choice. Due to the foregoing amendments and following remarks, these rejections should be withdrawn.

Independent claims 1, 18, and 28 require a plug be combined with a footbed to provide a single unit. Independent claim 30 requires a clearance be placed between the plug's bottom and the outer surface of the outsole for providing room for the plug to expand and to inhibit wear to the plug.

McClelland does not disclose a plug being combined with the footbed to provide a single unit. In fact, McClelland teaches away from such a combination (see Fig. 4) by having the footbed 22 separable from the plug 30 and, therefore, McClelland cannot anticipate a single unit made of the plug and footbed. Therefore, given the lack of disclosure of a plug combined with a footbed to provide a single unit, McClelland does not disclose all limitations of Applicant's claims 1, 19, and 28. Such disclosure is even less likely given McClelland's opposite teachings that relate to a plug being separable from a footbed. Based on the foregoing, Applicant respectfully requests the rejections under 35 USC § 102 be withdrawn.

McClelland also discloses a tread 40 be positioned in a clearance between the bottom of the plug and the walking surface. Claim 30 requires an opening extend from an inner surface of the outsole to an outer surface of the outsole, a plug extending downwardly from the footbed and placed within the opening, and a clearance defined by a volume between the bottom surface of the plug and the outer surface of the outsole. Because tread 40 is placed within the clearance of McClelland, the tread 40 may

inhibit the plug from expanding and may introduce wear to the plug, all of which are disadvantages that are overcome by Applicant's claimed clearance. Because there is no clearance between the plug 30 and the outer surface of the outsole, the rejections under 35 USC § 103 should be withdrawn.

Respectfully submitted,



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